

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Dennis Cox et al.
Serial No.: 10/808,629
Filing Date: March 24, 2004
Group Art Unit: 2136
Examiner: Chinwendu C. Okoronkwo
Confirmation No.: 6090
Title: Method for Blocking Denial of Service and Address Spoofing
Attacks on a Private Network

Mail Stop AF
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

The following Pre-Appeal Brief Request for Review ("Request") is being filed in accordance with the provisions set forth in the Official Gazette Notice of July 12, 2005 ("OG Notice"). Pursuant to the OG Notice, this Request is being filed concurrently with a Notice of Appeal. Applicants respectfully request reconsideration of the application in light of the remarks set forth below.

Remarks

This Application has been carefully reviewed in light of the Final Office Action (“Office Action”) mailed April 14, 2009. In order to advance prosecution of this Application, Applicants have responded to each notation by the Examiner. Claims 1-33 remain pending and stand rejected. Applicants respectfully request reconsideration and favorable action in this case.

Claim Rejections - 35 U.S.C. § 103

The Examiner continues to reject Claims 1-10, 15-21, and 27-33 under 35 U.S.C. § 103(a) as being disclosed *Coley* in view of *Malkin*. The Examiner rejects Claims 11-14, and 22-26 under 35 U.S.C. § 103(a) as being disclosed over *Coley-Malkin* and further in view of *Levinson*. Applicants respectfully traverse these claim rejections for the reasons discussed below.

i. Claims 1-10, 27-28, 30, and 32

Claim 1 teaches a method comprising receiving a request for connection from an initiator, over a public network, and requesting an acknowledgement from the initiator of the request. Claim 1 further teaches determining whether the acknowledgement has been received within a predetermined amount of time and denying the request if the acknowledgement is not received within the predetermined amount of time.

Coley discloses a firewall in “a stand-alone system that physically resides between a point of public access and a network element to be protected.” *Coley*, col. 5, lines 51-54. The firewall application is comprised of proxy agents that are “assigned to designated ports to monitor, respond to and verify incoming access requests.” *Coley*, col. 6, lines 4-8. The Office Action relies on *Coley* as disclosing the limitation “requesting an acknowledgement from the initiator of the request.” *Office Action*, pg. 4. Applicants respectfully disagree.

The portion of *Coley* relied upon by the Examiner merely states that “firewall 210 application assesses the characteristics of an incoming request and assigns an appropriate proxy agent tailored to the particular protocol and verification requirements of that incoming access request.” *Coley*, col. 7, lines 41-46. Applicants respectfully contend that “assess[ing] the characteristics of an incoming request” fails to teach, disclose, or suggest “requesting an acknowledgement.” Furthermore, there is no teaching, disclosure, or suggestion of any

acknowledgement being requested from the initiator of the request for connection. *Malkin* fails to cure these deficiencies. Therefore, Applicants respectfully contend that the proposed *Coley-Malkin* combination fails to teach, disclose, or suggest every limitation of Claim 1. Accordingly, Applicants respectfully request reconsideration and allowance of Claim 1, along with its dependent Claims 2-10.

Applicants respectfully contend that Claims 27, 28, 30, and 32 are patentably distinguishable from the proposed *Coley-Malkin* combination for at least the same reasons discussed above with regard to Claim 1.

ii. Claims 15-21, 29, 31, and 33

Claim 15 teaches a method comprising receiving an incoming data packet from a public network, comparing a source address of the data packet against known internal addresses of the private network, and determining if the source address matches a known internal address. If there is a match, Claim 15 teaches dropping the data packet, analyzing a header of the data packet, determining information regarding history of the packet, determining a real source of the data packet using the information regarding the history, and refusing to process any additional data packets received from the real source of the data packet.

As discussed above, *Coley* discloses a firewall in “a stand-alone system that physically resides between a point of public access and a network element to be protected.” *Coley*, col. 5, lines 51-54. The firewall application is comprised of proxy agents that are “assigned to designated ports to monitor, respond to and verify incoming access requests.” *Coley*, col. 6, lines 4-8. The Office Action contends that *Coley* discloses the limitations that if the source address matches a known internal address, determining a real source of the data packet using the information regarding the history of the packet and refusing to process any additional packets received from the real source of the data packet.”

Coley discloses “determination of whether a host source address of an incoming packet comports with a list of authorized or unauthorized addresses.” *Coley*, col. 9, lines 36-40. The list may include internal addresses to prevent “IP spoofing.” *See Coley*, col. 3, lines 24-40. For instance, “the packet filter maintains a list of addresses corresponding to network elements residing behind the firewall 318. If any incoming access request has a source address of a network element behind the firewall 318, that packet will be intercepted and discarded.” *Coley*, col. 10, lines 51-55 (emphasis added). Therefore, if an incoming packet

attempts to spoof a source address of a network element behind the firewall, *Coley* discloses that it is merely discarded. However, *Coley* completely fails to disclose any steps taken beyond this discarding when the source address matches a known internal address. There is no disclosure, teaching, or suggestion of determining a real source of the data packet using information regarding a history of the packet, or refusing to process any additional data packets received from the real source of the data packet. *Malkin* fails to cure these deficiencies. Therefore, Applicants respectfully contend that the proposed *Coley-Malkin* combination fails to teach, disclose, or suggest every limitation of Claim 15. Accordingly, Applicants respectfully request reconsideration and allowance of Claim 15, along with its dependent Claims 16-21. Additionally, Applicants respectfully contend that Claims 29, 31, and 33 are patentably distinguishable from the proposed *Coley-Malkin* combination for at least the same reasons discussed above with regard to Claim 15.

iii. Claims 11-14 and 22-26

The Examiner rejects Claims 11-14 and 22-26¹ under 35 U.S.C. § 103(a) as being unpatentable over *Coley* in view of *Levinson*. Applicants respectfully traverse these claim rejections for the reasons discussed below.

Claims 11-14 depend indirectly from Claim 1, and incorporate all the limitations thereof. In rejecting Claims 11-14, the Examiner appears to rely on *Coley* as disclosing each of the limitations of Claim 1. However, as stated above, *Coley* fails to disclose each of the limitations of Claim 1. *Levinson* fails to cure this deficiency. Therefore, Applicants respectfully contend that Claims 11-14 are allowable for at least the same reasons as discussed above with regard to Claim 1.

Claims 22-26 depend, either directly or indirectly, from Claim 15 and incorporate all the limitations thereof. In rejecting Claims 22-26, the Examiner appears to rely on *Coley* as disclosing each of the limitations of Claim 15. However, as stated above, *Coley* fails to disclose each of the limitations of Claim 15. *Levinson* fails to cure this deficiency. Therefore, Applicants respectfully contend that Claims 22-26 are allowable for at least the same reasons as discussed above with regard to Claim 15.

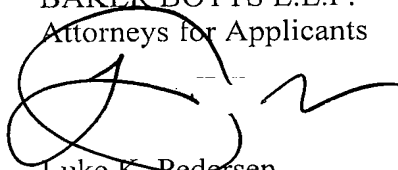
¹ Page 24 of the Office Action states that Claims 2-26 are rejected under *Coley* in view of *Levinson*, but the discussion indicates that it is actually Claims 22-26. Applicants assume the Office Action intended to reject Claims 22-26 under § 103(a).

CONCLUSION

As the rejections of Claims 1-33 contain clear legal and factual deficiencies, Applicant respectfully requests a finding of allowance of Claims 1-33. If the PTO determines that an interview is appropriate, Applicant would appreciate the opportunity to participate in such an interview. To the extent necessary, the Commissioner is hereby authorized to charge any required fees or credit any overpayments to Deposit Account No. **02-0384** of **Baker Botts L.L.P.**

Respectfully submitted,

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